

**REMARKS**

Claims 1, 2, 7 and 8 are pending in this application.

By this Amendment, claims 1 and 2 are amended for clarity. Claim 1 is also amended to recite additional features disclosed in the specification at, for example, paragraphs [0161] and [0162]. Claim 8 is amended to recite additional features disclosed in the specification at, for example, paragraph [0077].

Reconsideration of the application is respectfully requested.

The Examiner is respectfully requested to acknowledge receipt of the certified copy of the priority document. (The Examiner has only acknowledged consideration of the certified English translation of the priority document.)

The Office Action rejects claims 1, 2 and 7 under 35 U.S.C. §102(b) over U.S. Patent No. 5,760,423 to Kamakura et al. ("Kamakura") and over U.S. Patent No. 6,403,987 to Miki et al. ("Miki"). These rejections are respectfully traversed.

Kamakura discloses a light emitting device having a substrate 23, a lower electrode 31, a double hetero structure 24-28, and an upper electrode 2-4. See Fig. 5 and col. 3, lines 21-35. The upper electrode 2-4 appears to have an Ni layer and an NiO layer. See col. 5, lines 5-14.

The Office Action asserts that Kamakura's upper electrode 2-4 corresponds to the second electrode recited in claim 1. However, Kamakura introduces oxygen into the Ni layer 2 to form an NiO layer 3 after the deposition of the AU layer 4 on top of the Ni layer 2 is completed. (See Figs. 5 and 8, and col. 5, lines 5-29.) Kamakura does not disclose or suggest varying oxygen concentration while forming the upper electrode and before completion of forming the upper electrode. (See the specification at, for example, paragraphs [0161] and [0162].) Introducing oxygen while forming an electrode results in a structure different from a method in which oxygen is introduced after formation of the electrode. Thus, Kamakura does

not disclose or suggest "the second electrode formed by varying oxygen concentration while forming the second electrode," as recited in claim 1.

Miki discloses a light emitting device. In particular, Miki discloses a laminate 3A having a semiconductor 30 such as a sapphire substrate, an n-type electrode 107 and a 2-layer device electrode 112. See Fig. 15C and col. 17, lines 37-54. Miki appears to disclose that the 2-layer device electrode 112 contains sub-layers 11a and 11b. See Figs. 1, 6 and 15C; col. 6, lines 21-37; and col. 10, lines 8-16.

The Office Action asserts that Miki's n-type electrode 107 corresponds to the claimed first electrode, and that Miki's 2-layer device electrode 112 corresponds to the claimed second electrode. However, Miki's n-type electrode 107 is not laminated in order with the sapphire substrate and the 2-layer device electrode 112. See Fig. 15(c). Thus, Miki does not disclose a first electrode, a function layer, and a 2-layer device electrode laminated on a substrate "in that order," as recited in claim 1.

In view of the above, Kamakura and Miki do not disclose each and every element recited in claim 1. Therefore, Kamakura and Miki do not disclose or suggest the subject matter recited in claim 1, and claims 2 and 7 depending therefrom. Accordingly, withdrawal of the rejection of claims 1, 2 and 7 under 35 U.S.C. §102(b) is respectfully requested.

Claim 8 is believed to be patentable over the applied references. For example, Miki admits oxygen at the surface of the semiconductor 30 adjacent to the 2-layer device electrode. See col. 11, lines 13-15. Thus, Miki discloses significant oxygen amount at the surface of the semiconductor 30 adjacent to the 2-layer device electrode 112. Miki does not disclose or suggest a substantially zero oxygen concentration between the 2-layer device electrode 112 (allegedly corresponding to "second electrode") and the semiconductor 30 (allegedly corresponding to "function layer"). (See the specification at, for example, paragraph [0077].)

Thus, Miki does not disclose or suggest "the lower portion of the second electrode having a substantially zero oxygen concentration," as recited in claim 8.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 2, 7 and 8 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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